



**IN THE HIGH COURT OF KENYA**

**AT MOMBASA**

**ENVIRONMENT AND LAND COURT CASE NO.140 OF 2013**

**KENYA KNITTING AND WEAVING MILLS LIMITED .. ..... PLAINTIFF/RESPONDENT**

**- V E R S U S -**

**YUSUF ABDALLA IBRAHIM ..... DEFENDANT/APPLICANT**

**RULING**

[1] The applicant filed an application dated 22nd November, 2013 praying that this court grants him leave to amend his defence and to file a counterclaim. He averred that a new development has occurred in that there was a conviction of the plaintiff's Managing Director in Nairobi Chief Magistrate's Court Criminal Case Number 334 of 2011 which now necessitates and/or requires the defendant to amend his defence and file a counterclaim. The defendant opposed this application. He admitted that on 15th November, 2013 he was convicted for issuing bad cheques and he paid a fine of Ksh. 40,000/-. He said that he filed an appeal on 15th November, 2013. The respondent argued that it will be prejudiced if the amendment is allowed.

[2] I have perused the proceedings in **Nairobi Criminal Case No. 334 of 2011 Republic vs Kamal Bhushan Joshi**. The central issue was the transfer of Mombasa Block XI/180 situated at Tudor area within Mombasa. The central issue in this case is also Mombasa XI/280 and whether or not the defendant should not be evicted therefrom.

[3] It is important that the court is availed all the necessary evidence to enable it to arrive at a fair and a just decision. In the interest of justice the defendant is allowed to amend his defence within 21 days. He will serve the same on the plaintiff who shall have fourteen (14) days to file its reply. Needless to say each party shall have its day in court to canvass the suit. It is so ordered.

**Dated and delivered in open Court at Mombasa this 4th day of September, 2014.**

**S. MUKUNYA**

**JUDGE**

**4.9.2014**

In the presence of:

Mkhan Advocate for the applicant

Mkile & Co. Advocates for the defendant.